

ARTICLE XI

SPECIAL PERMIT CONDITIONS

Section Special Conditions - In addition to the general conditions set forth in Section 10.10
11.01 of this Bylaw for all special permits the following special conditions shall apply to the following uses in this article listed as special permits in various districts in the Table of Use Regulations.

Section Removal of Soil, Loam, Sand, Gravel, Quarry or Other Earth Materials
11.02 NOW GENERAL BYLAW: ARTICLE TWENTY - Earth Removal

Section Filling of Land or Water Area - For the filling of any land or water area where
11.03 such filling is not covered by Article XIII of this Bylaw, where such filling requires an amount of fill equivalent to 500 cubic yards or more; or where the area to be filled in exceeds 10,000 square feet, a permit must be issued by the permit granting authority prior to initiation of site work. Where said filling is proposed within a project subject to review by the Zoning Board of Appeals and/or the Planning Board, the reviewing Board shall serve as the permit granting authority under this Bylaw. Where a proposed project must receive permits from both Boards, or where the work does not require additional permits, the Zoning Board of Appeals shall serve as the permit granting authority. The following conditions apply to any filling authorized under this Bylaw shall except for the construction of a new subsurface disposal system or repair and/or alteration of an existing subsurface disposal system: (Such conditions shall include, where applicable, prior approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Highway Department under Chapters 130 and 131 of the General Laws.)

1. Submission of a location plan at a scale of 1"=1,000' showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie-in to the nearest road intersection.
2. Submission of a site plan to a minimum scale of 1"=40' of the lot and surrounding area within 100 feet showing in addition to number one above, existing and proposed contour lines at intervals of not more than two feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered land surveyor.
3. Provision for temporary and permanent drainage of the site.
4. Limitation of fill to terrace fills which are not to exceed ten feet at any one time nor be within ten feet of an adjacent lot line or any cut.
5. Regrading of all parts of the slopes resulting from such fill.

6. Replacement of at least four inches of topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
7. Submission of plan for lighting, if night operation is contemplated.
8. Where any fill will have a depth of ten feet or more and create a slope of more than one foot in two feet, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates. Such fence shall be located ten feet or more from the edge of the fill.
9. In granting a permit hereunder, the reviewing authority shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town which may include conditions as to the overall operation and as relating to the submitted items above.
10. Where filling proposed under this Bylaw is proposed within a project subject to review by the Zoning Board of Appeals and/or the Planning Board, the reviewing authority shall conduct a public hearing to consider the application for filling concurrent with the hearing to consider the project itself.

Section Open Space Residential Development

11.04

1. Purposes - The purpose of the Bylaw is to: allow for flexibility and creativity in the design of residential developments; encourage preservation of scenic vistas, natural resources and existing and potential municipal water supplies; facilitate construction and maintenance of streets, utilities and public services in a more economical and efficient manner; encourage a less sprawling form of development that consumes less open land and conforms to existing topography and natural features better than a standard subdivision; preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails; encourage provision of diverse housing opportunities and integration of a variety of housing types; and further the goals and policies of the Town's comprehensive plan.
2. Definition - Open Space Residential Development (OSRD): A single family detached residential development in which the buildings are clustered together with reduced lot sizes and frontage. The land not included in building lots is permanently preserved as open space as defined herein. OSRD is the preferred form of residential development and/or redevelopment in the Town of Marshfield for residential developments of five (5) or more lots.
3. Applicability - The Planning Board may grant a special permit for an OSRD for any parcel or contiguous parcels of at least five (5) acres in any district permitting single family residences subject to the regulations and conditions herein.

4. Procedural Requirements

Rules and Regulations: The Planning Board shall adopt Rules and Regulations consistent with the provisions of this bylaw and shall file them with the Town Clerk. Such rules shall address the size, content, and number of copies of Preliminary and Definitive plans and other submittals and the procedure for the review of special permits.

Density/Number of Dwelling Units: The number of dwelling units permitted shall not exceed that which would be permitted under a conventional subdivision that complies with the Marshfield Zoning Bylaws and the Subdivision Rules and Regulations of the Planning Board and other applicable laws and regulations of the Town or the state. The total number of dwelling units shall be determined by the following formula:

[Total area of land subject to the application] – [Area of wetlands/waterbodies] =
Applicable Land Area.

[Applicable Land Area] x [.90] Divided by Minimum Lot Area = Total number of
dwelling units.

A preliminary subdivision plan may be submitted to assist in demonstrating the allowable number of units. If the parcel lies in more than one zoning district, the total for each district shall be calculated separately.

Review and Decision: The Planning Board shall act on applications according to the procedure specified in MGL Chapter 40A, Section 9 with the exception that a decision shall be rendered within the timeframe for Definitive Subdivision Plans specified in Chapter 41, Section 81U whenever this timeframe is shorter. Public hearings for the subdivision application and the special permit application shall be held concurrently.

Criteria for Special Permit Decision:

- a. Findings: The Planning Board may approve the development upon finding that it complies with the purposes and standards of the OSRD Bylaw and is at least equivalent to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The Planning Board shall consider the following criteria in making its decision:
 - i) Upland open space as required by this Bylaw has been provided and generally conforms with Subsection 8 of this Bylaw.
 - ii) Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots.
 - iii) Lots meet the applicable dimensional requirements of Subsection 5 of the OSRD Bylaw and the Marshfield Zoning Bylaws.

The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the Bylaw.

- b. Time Limit: Special Permits are granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.
 - c. Relationship to Subdivision Control Law: Nothing contained herein shall exempt a subdivision from compliance with other applicable provisions of these Bylaws or the Marshfield Subdivision Rules and Regulations, nor shall it affect the right of the Board of Health and Planning Board to approve, condition or disapprove a plan in accordance with the provisions of such Rules and Regulations and the Subdivision Control Law.
5. Standards and Dimensional Requirements - Where the requirements of this section differ from or conflict with the requirements in the Table of Density and Dimensional Standards found elsewhere in this bylaw, the requirements of this section shall prevail for OSRD developments.

Minimum Lot Size: One half the square footage otherwise required by the Zoning District in which the project is located or 15,000 square feet, whichever is less.

Minimum Frontage: The minimum frontage may be reduced from the frontage otherwise required in the Zoning District; provided however that no lot shall have less than 75' of frontage and provided further that such frontage reduction shall apply only to lots fronting on proposed internal roadways.

Lot Shape: All building lots must be able to contain a circle of a minimum diameter of 75' from the front lot line to the rear building line.

Setbacks: The Planning Board may permit a reduction by up to one-half of the setbacks otherwise listed in the Table of Dimensional Regulations in this Bylaw, if the Board finds that such reduction will result in better design, improved protection of natural and scenic resources and will otherwise comply with the Bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15' from the roadway right-of-way, and a minimum of 30' from the outer perimeter of the land subject to the application. This 30' setback shall be maintained in a naturally vegetated state to screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged.

Required Open Space: All land area not utilized for lots, roads, and drainage shall be set aside as permanent open space. A minimum of 50% of the upland area of the parcel ("applicable land area") shall be provided as open space. Applicants are encouraged to include wetlands and waterbodies

within the open space; however, they do not count toward the open space requirement. Roadway layouts do not count toward the open space requirement.

6. Permissible Uses of Open Space

6.1 Purposes: Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents of the OSRD development and/or the public. Where appropriate, multiple use of open space is encouraged. At least half of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas. The Board may approve or disapprove the proposed uses.

6.2 Recreation Lands: Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) be of a shape, slope, location and condition to provide an informal field for recreation or community gardens for the residents of the subdivision.

6.3 Leaching Facilities: Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands, or waterbodies, and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be permanently maintained by the lot owners. Where a parcel straddles the boundary of the Water Resource Protection District, leaching facilities shall be located outside of the District to the maximum extent feasible.

6.4 Accessory Structures: Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking. With this exception, no other impervious areas may be included within the open space.

7. Ownership of Open Space

7.1 Ownership Options: At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be:

- a. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use;
- b. Conveyed to a non-profit organization, the purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Subsection 7.2 below. Such organization shall be acceptable to the Town as a bona fide conservation organization; or

- c. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development ("homeowners association") and placed under conservation restriction as specified in Subsection 7.2 below. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other common facilities until such time as the association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining these areas. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

7.2 Permanent Restriction: In any case, where open space is not conveyed to the Town, a permanent conservation, agricultural or historical preservation restriction approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the endorsed definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained with good conservation practices.

7.3 Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

7.4 Maintenance of Open Space: In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lots to ensure payment of such maintenance expenses.

7.5 Monumentation: Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.

8. Design Requirements - The location of open space provided through this bylaw shall be consistent with the policies contained in the Marshfield Comprehensive Plan and the Marshfield Open Space and Recreation Plan. The following design requirements shall apply to open space and lots provided through this bylaw:

- a. Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100' wide) shall occur only when necessary for access, as vegetated buffers along wetlands, or as connections between open space areas.
- b. Open space shall be arranged to protect valuable natural and cultural areas such as stream valleys, wetland buffers, forestland and significant trees, wildlife habitat, open fields, scenic views, trails and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized.
- c. Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by foot trails.
- d. Where the proposed development abuts or includes a body of water or a wetland, these areas and a minimum 50' buffer to such areas should be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.
- e. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.
- f. Open space shall be provided with adequate access, by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development.
- g. Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections shall be provided where appropriate.

Section 11.05 Planned Mixed-Use Development – This section of the zoning by-law is to allow a planned mixed-use development overlay district within a portion of the industrial district as shown on the Zoning Map.

1. Purpose: The purpose of this planned mixed use development section is as follows:
 - To provide an opportunity to comprehensively plan a large tract of land in a pedestrian friendly, campus-like setting, around a public green.

- To ensure high quality site planning, architecture and landscape design to create a distinct visual character and identity for the development that provides an environment with safety, convenience and amenity.
 - To ensure any potential traffic impacts of the planned mixed-use development are properly mitigated and in keeping with the character of the Town of Marshfield.
 - To generate positive tax revenue, while providing the opportunity for new business growth and additional local jobs.
2. Process: A planned mixed-use development is a two-step process, which allows the town and an applicant greater flexibility in the development of the industrial zone. In addition to compliance with this bylaw, all applicants shall comply with the requirements set forward in the Rules and Regulations Governing Development within the Planned Mixed-Use Development Overlay District as adopted by the Marshfield Planning Board and as may be amended from time to time.

- Phase I: The applicant files a Definitive Subdivision and Land Classification Plan as described in Section 5.0 for a phase or combination of phases for land within the PMUD overlay district. The plan locus for each phase must include at least thirty (30) contiguous acres within the PMUD overlay district as shown on the Town of Marshfield zoning map, as amended. Additional land can be added to or substituted within a phase, from time to time, provided the total acreage of the Phase is not less than thirty (30) acres and that a revised Definitive Subdivision Plan is filed. The Definitive Subdivision Plan and Land Classification Plan for each phase shall contain the overall road network, roadway drainage, location of the public green, bike and pedestrian ways, lots and proposed uses by phase.
- Phase II: The applicant files a Special Permit Application with the Planning Board serving as the SPGA, for an element (or combination of elements) within a phase. An element may be a single use or group of uses within a phase of the overlay district. When site plan approval is required, the granting authority shall be the Zoning Board of Appeals except in the Planned Mixed-Use District where a special permit is also required and that special permit granting authority is the Planning Board. In that case, the special permit granting authority for the site plan approval shall be the Planning Board.

3. Applicability and Uses:

In addition to the uses allowed in the I-1 zone, the following uses may be allowed by special permit: Limited retail (including Grocery Store); Eating and drinking places excluding drive-in establishments; Bank within or as a liner to the main retail building; Membership club; Other amusement / recreation service; Housing for the elderly not to exceed 3 units per acre (subject to Section 11.08); Nursing, rest or convalescent home not to exceed 24 beds per acre.

4. Required Performance Standards:

- A. Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. Buildings shall be oriented around the public green and not Route 139 (Plain Street).
- B. Access to Route 139 (Plain Street) from a Planned Mixed-Use Development shall be through a secondary street as defined in the Planning Board Subdivision Rules and Regulations at a signalized intersection.
- C. Maximum percentage of land area allowed by use within the planned mixed-use overlay district.

Use and related lot requirements in acres	Maximum percentage of the overlay district in acres
Limited Retail (including Grocery Store)	15% (see D below)
Office/Research/Medical	35%
Residential (elderly)	25%
Nursing Home /Assisted Living	35%
Profit Recreation	15%

- D. The total Limited Retail use within the Planned Mixed-Use Development overlay district shall be restricted to a maximum gross floor area of 80,000 square feet or 15% of the overlay district, whichever is more restrictive.
- E. The majority of the parking shall be located to the rear or sides of buildings. All parking and loading areas shall be completely screened from Route 139 (Plain Street) by a minimum 50-foot wide raised and landscaped buffer. Parking lots and loading areas shall be appropriately screened from roadways within the overlay district by a minimum 20-foot wide raised and landscaped buffer. Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.
- F. Reduction in parking space requirements may be permitted where by design and use it is shown to the board's satisfaction that the parking is compatibly shared by multiple uses. However, in no case shall a parking requirement reduction exceed twenty (20) percent of those parking spaces required under normal application of requirements for the non-residential uses proposed.
- G. Individual retail establishments shall be limited to a maximum gross floor area of 55,000 square feet. An individual retail establishment may be increased to 65,000 square feet where the SPGA finds that individual sections of the retail establishment front the public green with access and windows or where the additional space is used as small retail uses lining the wall facing the public green of the large retail

establishment.

- H. The ratio of the gross floor area of the building(s) to the total lot area shall not exceed forty-five (45%) percent.
- I. The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves.
- J. Architectural details of new buildings and additions, and textures of walls and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.
- K. The building's location shall be oriented parallel or perpendicular to the public green(s) and/or street. Where the minimum setback cannot be maintained, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements, which will maintain the street line.
- L. The buildings' main entrance may be placed to the side of the front facade to facilitate access to parking.
- M. Building façades in excess of forty (40) feet shall incorporate recesses and projections, of a minimum of two (2) feet in depth, to break up the building's mass.
- N. A minimum of 60% of the building's public green(s) and/or street side façade shall contain windows and other appropriate architectural elements, excluding the façade facing Route 139 (Plain Street) where the landscaped buffer is determined by the Planning Board to be adequate. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building façade; metal awnings are discouraged.
- O. Individual special permit applications shall file a traffic impact study as identified in Section 11.10.
- P. The large retail establishment shall either provide an entrance to the public green or side façade to the public green shall be lined with uses to enhance the pedestrian activities and the use of the public green(s).
- Q. A public green shall be required for each phase of development within the PMUD. The public green(s) shall be a minimum of one and one-half (1½) acres in size per phase and shall be designed as a pedestrian friendly park. The public green(s) shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. Each green shall be used solely for active and passive recreation purposes and shall be open to the public. The total acreage of the green in each phase may be used toward the land area calculations to determine allowable

density for one of the uses within that phase.

- R. Setbacks for the overlay district shall be as follows:

Minimum Yards	
Building setbacks	Minimum (ft.)
Public Green (where applicable)	5
Front	20
Side	10
Rear	30

Front setbacks for buildings facing the public green(s) may vary. All other standards for I-1 zoning districts contained in the Sec. 6.10 Table of Dimensional and Density Regulations shall apply.

- S. In cases where the proposed traffic mitigation is deemed by the SPGA to be out of character for the town, the applicant may propose additional open space from within the PMUD district or adjacent districts, or may donate an amount equal to the cost of the proposed mitigation to the Town for the purpose of open space acquisition. Where open space is provided in lieu of traffic mitigation, said open space shall be at least equal in area to the total acreage of land of said proposed use.

5. Ownership of Public Green

5.1 Subject to approval by the Planning Board, all areas designated as public greens shall be either placed under a permanent conservation restriction or deeded to the Town as a condition of special permit approval. If placed under a conservation restriction, said restriction shall be in a form approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, that shall be recorded to ensure that such land shall be kept in an open state. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court with the issuance of the building permit.

5.2 Maintenance of Public Green: The Town shall be granted an easement over such public green sufficient to ensure its perpetual maintenance as recreation land. Such easement shall provide that in the event the owner fails to maintain the public green in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the undeveloped lots within the corresponding phase of the PMUD to ensure payment of such maintenance expenses.

5.3 Monumentation: Where the boundaries of the public green are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the public green.

6. Criteria for Review and Approval

The SPGA shall review all applications for Planned Mixed-Use Development to determine compliance of the proposal with the following criteria:

6.1 Section 11.05 (1) purpose;

6.2 Section 11.05 (4) required performance standards;

6.3 That the projected traffic increase of the proposed uses to the local road(s) and Route 139 is within the capacity of the existing road network, or that the applicant's proposed traffic mitigation measures will adequately address traffic flow.

6.4 That the proposed development improves pedestrian and bicycle access and safety;

6.5 That suitable public green(s) and facilities have been provided;

6.6 Acceptability of building and site design;

6.7 The Marshfield Comprehensive Plan (The Townscape Plan), as amended.

7. Severability

If any provision or provisions of this bylaw is or are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme judicial court of the commonwealth, the remaining parts of said chapter shall not be affected thereby.

8. Exemption

The Marshfield Planning Board shall have the right to waive strict compliance with the provisions of this bylaw for nonprofit recreational uses proposed on any municipally owned land within the planned mixed-use development overlay district.

Section Planned Industrial Development - For the planned development of land for industrial purposes subject to area regulations less than the minimum required in Table of Density and Dimensional Regulations, provided:

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.
2. A site plan shall be presented for the entire tract showing two-foot finished contours, existing and proposed drainage, sewerage, water, parking, street access and landscaping, and shall be subject to approval by the Planning Board where it constitutes a Subdivision as per the Subdivision Control Law.
3. Individual lot sizes shall not be reduced more than ten percent below that normally required for manufacturing or service industrial purposes in the district.

4. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.
5. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.
6. The development shall be served by a public water system.
7. At least ten percent of the total tract area (of which at least 80 percent shall not be wetlands or land with a slope of over five percent) shall be set aside as common land and shall be either deeded to the town or covenanted to be maintained as permanent "open space" in private or cooperative nonprofit ownership. The common land shall be either in a single contiguous parcel or in several separated parcels as deemed appropriate by the Board.
8. Such common land shall be deeded to the town or permanently covenanted simultaneously with the Planning Board's approval of the Subdivision plan, if any.
9. Such common land shall be restricted to open space, play field, golf course, or conservation areas.
10. Such common land shall have suitable access to a street.

Section Home Occupation - For the use of a dwelling in any "R" District for a home
 11.07 occupation, the following conditions shall apply:

1. No more than one nonresident shall be employed therein.
2. The use is carried on strictly within the principal building.
3. Not more than 25 percent of the existing net floor area not to exceed 400 square feet is devoted to such use.
4. That there shall be no display of goods or wares visible from the street.
5. No advertising on the premises other than a small non-electric sign not to exceed two square feet in area, and carrying only the occupant's name and his occupation such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist and similar occupations or professions.
6. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.

7. Any such building shall include no feature or design not customary in buildings for residential use.
8. Such uses as clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.

Section 11.08 Age-Restricted Adult Village

For Age-Restricted Adult Village (ARAV) housing not subject to the Table of Dimensions and Density Regulations nor subject to Sec. 10.10 of the Zoning Bylaw, the following regulations shall apply:

1. Applicability and Use

1.1 The tract of single or consolidated ownership at the time of application shall be at least six (6) acres in size in all residential zones, and shall be subject to approval by the Planning Board acting as the Special Permit Granting Authority (SPGA).

1.2. The following uses shall be permitted: attached ARAV housing units, community facilities such as: religious, recreational, educational or membership club for the exclusive use of the residents of the ARAV.

2. Required Performance Standards - In addition to other minimum requirements stated elsewhere in this bylaw, the following improvements, performance standards and/or conditions are required for all Age-Restricted Adult Villages (ARAV) in the Town of Marshfield.

2.1 Yield Plan

Applicants shall submit a Yield Plan that shows how many acres are available for development after subtracting all areas needed for storm water management facilities, roads and common driveways. The Yield Plan will determine the total number of acres available for calculating the number of As-of-Right (AOR) housing units. One acre is equal to one AOR unit.

2.2 Density of Housing

The total number of housing units allowed in an ARAV in all residential zoning districts shall be determined by the following formula that includes: As-of-Right units, Affordable and density bonus units. The number of Affordable units and Density Bonus units shall equal the number of As of Right (AOR) units multiplied by twenty-five (25 %) percent and rounded up to the next even number, divided by two. (Example: A 9 unit AOR development will result in 9 AOR units plus 4 units (.25 x 9 units = 2.25 units rounded up to 4 units, 2 Affordable units and 2 Density Bonus units) or 13 units in total. A 31 AOR unit development will result in 31 AOR units plus 8 units (.25 x 31 units = 7.5

units rounded up to 8 units, 4 Affordable units and 4 Density Bonus units) or 39 total units.

2.3. Natural Open Space

- a. In all residential zones, at least fifty (50) percent of the total tract area subject to the ARAV Special Permit application shall be upland natural open space. The natural open space shall be set aside as common land and shall be either deeded to the Town or placed under a Conservation Restriction, as defined in Article II, and maintained as permanent “open space” in private or cooperative non-profit ownership. The SPGA shall provide for the disposition and control of the open space land in a manner and form acceptable to them and approved by Town Counsel.
- b. Natural open space is the area of the parcel(s) that is left undisturbed, in its natural state, as described further in this section. Areas of natural open space shall be preserved for: wildlife habitat, aquifer protection, historic preservation, passive recreation and / or forestry management. Natural open space shall not be used for any of the following activities: buildings or structures, impervious surfaces, above-ground utilities or subsurface infrastructure with the exception of storm water management facilities as noted below. Natural open space areas should encompass or protect valuable natural and cultural resources such as: large tracts of forest land, buffer zones to wetlands and water bodies, significant trees, scenic views, river valleys, geological features, archeological sites, historic trails or ways and open fields. Natural open space areas shall be contiguous areas of land. Narrow parcels or portions of lots less than 50’ wide cannot be included in required natural open space calculations unless they are used for access to a walking trail. Walking trails may be constructed of organic materials such as wood chips or stone dust.
- c. For the purpose of calculating the required 50% natural open space, the area of proposed development activity shall be enclosed within a polygon. The inside of the polygon shall be considered the area of the development footprint. Remaining areas outside of the development footprint, greater than 50’ in width, shall be used to satisfy the 50% natural open space requirement. Areas of natural open space may be managed utilizing standard, accepted forestry practices. Additional landscape plantings can be planted in natural open space areas to supplement existing vegetation. Storm water management facilities may be allowed within the area of natural open space, with the approval of the SPGA, if site conditions leave no other feasible alternatives. However, the area of the storm water management facilities shall not be included in the 50% calculation for natural open space. Areas disturbed for construction of storm water management facilities must be restored with native vegetation.

2.4 Mandatory Affordable Housing

- a. All ARAV’s are required to provide Affordable housing in compliance with Section 11.14 Inclusionary Zoning for Affordable Housing. All Affordable housing created

by this bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements of the Massachusetts Department of Housing and Community Development LIP Program. Affordable housing units will count toward the Town's Subsidized Housing Inventory, in accordance with M.G.L. CH. 40B, sec. 20-23.

2.5. Site Design

The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent deemed feasible by the SPGA;

- a. Minimize obstruction of scenic views from publicly accessible locations.
- b. Preserve unique natural or historical features.
- c. Minimize grade changes, removal of trees, vegetation and soil.
- d. Maximize open space.
- e. Maximize buffers to wetlands and water bodies.
- f. Screen objectionable features from neighboring properties and roadways.

2.6 Roads and Driveways

- a. The ARAV shall provide for access on roads that have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the proposed ARAV. The development shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through proper layout, location and design.
- b. All roads and driveways serving more than one dwelling unit shall be designed and constructed in accordance the following sections of the Subdivision Rules and Regulations of the Planning Board of the Town of Marshfield. Section 4. Design Standards and Required Improvements. With the exception of Subsections 4.1.5 and 4.4.9 in their entirety and Subsection 4.1.4 – Note **, which are exempt from this requirement. Roads and driveways serving more than one dwelling unit shall also be designed and constructed in accordance with Section 5 - Completion of the Way, Subsections 5.2, 5.4, 5.6 and 5.7 only.

2.7 Dead End Roads

- a. All dead end roads and common driveways shall terminate in a cul-de-sac or provide other accommodations for vehicles to reverse direction. Turn around areas shall be designed to accommodate emergency vehicles.

- b. Dead end streets and connecting common driveways shall not exceed 800' in length, measured from the intersection of the road that provides access to the ARAV.

2.8 Architecture

- a. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and sitting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings. All buildings shall be separated a minimum distance of 1 1/2 times the height of the proposed buildings.
- b. The maximum building height shall be 35 feet from the existing natural elevation.

2.9 Parking

- a. The proposed development shall provide two (2) parking spaces per each unit, plus one (1) visitor parking space for every ten (10) units, plus one (1) parking space per each two hundred (200) square feet of non-residential area.
- b. Parking areas, including maneuvering space for parking and loading areas, shall not be located within the required 40' buffer areas.
- c. Parking areas shall be screened from public ways and adjacent or abutting properties by building location, fencing, and/or dense landscape plantings.
- d. No parking shall be allowed on interior streets or ways.

2.10 Landscaping

- a. Connecting tree-lined walkways shall be provided between structures, parking areas and abutting public ways. A mixture of shade trees shall be spaced a minimum of forty (40) feet apart along streets and walkways. Landscape plans should be prepared and stamped by a professional landscape architect. The type, size and location of all plantings shall be included in the landscape plan.
- b. Exposed storage areas, machinery, service areas, truck loading areas, solid waste disposal facilities, utility buildings, structures and other unsightly uses shall be set back and/or screened to protect neighbors and residents from objectionable views, noise, odors and vibration.

- c. A fifty (50) foot wide natural buffer shall be required along the perimeter of the property, except for access roads, which in the opinion of the SPGA, provides suitable screening of abutting properties. The SPGA may require the natural buffer to be supplemented with additional plantings if the natural buffer does not provide adequate screening of abutting properties.

2.11 Lighting

All exterior lighting on roads, walkways and buildings shall be approved by the SPGA. Lighting specification cut-sheets shall be submitted for all lighting in the ARAV. Lighting shall be designed to avoid unnecessary glare to abutting properties. Sufficient lighting should be provided to accommodate the needs of senior residents. A lighting plan shall be provided showing the intensity of light on the property. Reflectors and shields shall provide total cut-off of all light at the property boundaries.

2.12 Storm Water Management

The storm water management system shall be designed so that the volume and rate of run-off shall not exceed predevelopment conditions. The use of Low Impact Development principals is encouraged, such as bioretention areas, and decentralized storm water management facilities. Groundwater recharge shall be maximized, surface and ground water quality shall be maintained or improved by employing Best Management Practices. Neighboring properties shall not be adversely affected. The SPGA may require that existing problems on/or adjacent to the site be mitigated as a condition of approval of a special permit under this section. Open air drainage facilities shall have a minimum fifteen (15) foot landscaped evergreen buffer area around the facility (excluding basin clean out access way).

2.13 Utilities

All electric, telephone, cable TV, and other such utilities shall be located underground. An evergreen landscaped buffer shall be provided around all transformers and other utility facilities.

2.14 Water Resource Protection Districts

Applicants submitting ARAV Special Permit applications within the Water Resource Protection District (WRPD) shall file for a WRPD Special Permit concurrently with the ARAV Special Permit and conform to the performance and design standards of Section 13.03.

2.15 Waste Water

Waste water treatment systems in all other ARAV developments shall be designed to not exceed 10 parts per million for the concentration of nitrate-nitrogen loading for the subject property as a whole, measured at the property boundaries.

2.16 Historic Resources

The SPGA and applicant shall seek guidance from the Historical Commission to insure the protection, restoration, or preservation of historic locations, artifacts or structures within the proposed development.

2.17 Management of Common Areas

- a. If an ARAV is owned or converted to ownership of more than one ownership entity, a non-profit Community Association (CA) shall be established, requiring membership of each property owner in the development. The CA shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, roads, storm water management and recreational facilities. Prior to the closing of the public hearing, the applicant shall submit a CA agreement guaranteeing continuing maintenance of common utilities, land and facilities. The CA shall assess each home owner an equal share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the SPGA.
 - b. CA agreements or covenants shall provide that in the event that the association fails to maintain common facilities such as the waste water treatment system or storm water management system, in reasonable order and condition, in accordance with the agreement, the Town may, after notice to the CA and a public hearing, enter upon the property and conduct necessary maintenance, to protect the environment. The cost of any work shall be assessed equally against the properties within the development. All costs incurred by the Town for needed maintenance will be reimbursed by the CA.
3. Administrative Procedures - The Planning Board shall be the Special Permit Granting Authority (S.P.G.A.) for ARAV applications. Applicants shall follow the administrative procedures relative to the issuance of Special Permits set forth in the Marshfield Planning Board Rules Governing Housing for the Elderly and Handicapped Persons as adopted on 3/19/90 and most recently amended on 3/17/03, or any successor regulations. Copies of the abovementioned administrative rules shall be on file with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in MGL CH. 40A, Section 9.

4. Criteria for Review and Approval

- 4.1 The S.P.G.A. shall review all applications for ARAV developments to determine the suitability of the site to the following criteria:
- a. Compliance with 11.08 (2) Required Performance Standards;
 - b. Compatibility with the surrounding neighborhood;
 - c. Compliance with adopted public plans;

- d. The requested use will not overburden any public infrastructure such as water, roads, drainage or sewer system or any other municipal system to such an extent that the proposed ARAV in the immediate area, or in any other area of the Town will be subjected to development related impacts that would adversely affect health, safety or the general welfare;
- e. Acceptable design and layout of streets and common driveways;
- f. That the projected traffic increase to the local road(s) is within the capacity of the existing network and does not impair pedestrian safety;
- g. Compliance with environmental performance standards;
- h. Appropriateness of building architecture, orientation and site design; and
- i. The preservation of important areas of open space or items of historical and / or archaeological significance.

5. Decisions

- a. The findings, including the basis of such findings, of the SPGA shall be stated in the written decision of approval, conditional approval, or denial of the application for Special Permit, and shall require a 4/5 majority vote for approval. For approval of a Special Permit granted under this section, an affirmative finding of the SPGA shall be required for all of the nine (9) criteria listed above.
- b. The SPGA may also require, in addition to any applicable conditions specified in this Bylaw, such conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, modification of the architectural design and exterior appearance of the structures; lighting, regulation of the number and location of driveways, or other traffic features; off-street parking or loading or any other special features beyond the minimum required by this bylaw.
- c. Such conditions shall be provided in writing, and the applicant may be required to post a performance bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.
- d. The Special Permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown as determined by the SPGA. Once construction has begun, it shall be actively and continuously pursued to completion within a reasonable time.

(Section 11.08 Amended 5/5/08 Article 21 ATM)

Section Residential Accessory Apartments

1. Purpose - The creation of any accessory apartment within an existing owner occupied, single-family residence, may be authorized by Special Permit in order to achieve the following objectives:
 - a. To enable home owners who wish to remain in their homes and neighborhoods to do so.
 - b. To promote more efficient use of the existing housing stock by allowing flexibility in response to changing household size.
 - c. To promote affordable rental housing and home ownership for small households.
 - d. To protect and maintain the character of the surrounding neighborhood.
2. Applicability - Special Permits may be granted within R1, R2, R3, B1, and B2 districts by the Board of Appeals, acting as the Special Permit Granting Authority (SPGA), when the plan submitted meets the review criteria contained in Section 3.
3. Review Criteria - In reviewing and evaluating the plan, and in making a final determination regarding the Special Permit application, the SPGA may grant a Special Permit, provided that the following criteria are met. These criteria are the minimum over and above any other criteria which may be set forward in any portion of this bylaw which is specifically necessary to carry out the stated purposes for owner-occupied accessory apartments.
 - a. Only one accessory apartment shall be allowed per single-family dwelling unit;
 - b. The accessory apartment shall occupy no more than forty percent (40%) of the total living area of the dwelling;
 - c. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. In general, any new entrance shall be located on the side or rear of the building. Reasonable deviation from this condition shall be allowed in order to facilitate access and mobility for disabled persons;
 - d. Compliance with Board of Health policies and regulations;
 - e. Approved water conservation devices shall be required for new installations. This would include low flow shower heads and water efficient toilets;
 - f. The dwelling must be in existence, and not substantially altered, for a period of three years prior to the filing of the "Application for" Special Permit;

- g. Required minimum lot size shall be for property in zones B1 and R3 - 10,000 square feet; in zone B2 and R2 - 20,000 square feet and in zone R1 - 40,000 square feet;
 - h. Sufficient parking space shall be provided on the lot, including at least one additional space to serve the accessory apartment. Said additional space shall have access to the driveway serving the principal dwelling;
 - i. The principal dwelling shall be occupied by the applicant/owner as his or her principal residence;
 - j. Compliance with the State Building Code.
4. Plan Requirements - The applicant shall comply with Section 10.10 Special Permits of this by law. In addition, the following information shall be furnished:
- a. the existing and proposed square footage of each dwelling unit;
 - b. the existing and proposed floor layouts of each unit;
 - c. any proposed changes to the exterior of the building;
 - d. all plans should be prepared by a registered land surveyor; and
 - e. requirements for open space should be maintained.
5. Transfer of Ownership of a Dwelling with an Accessory Apartment - The Special Permit for an accessory apartment in a single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling.

The new owner(s) shall be required to apply for a new approval of a Special Permit for an accessory apartment and shall submit a written request to the SPGA.

6. Recertification of Owner Occupancy - Not later than January 31 of each year following issuance of a Special Permit for an accessory apartment, the owner of the premises must certify under the pains and penalties of perjury on forms to be available at the office of the Building Inspector that the premises continue to be occupied by the owner as his or her principal residence. Failure to recertify in a timely manner shall result in the automatic termination of the Special Permit.

Section 11.10 Traffic Impact Study – A detailed traffic impact analysis shall be submitted for any application for a development which requires a) a special permit for a principal use within the B-1, B-2 or I-1 zoning district, or b) which would have an anticipated average peak hour trip generation in excess of 30 vehicle trip ends or an average weekday generation in excess of 400 vehicle trip ends; except that the requirement for traffic impact analysis may

be waived where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed in the past 12 months and is acceptable to assess the impacts of the proposed project; or where it is determined by the Board that the primary traffic impacts of the proposed development affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, and where the applicant is willing to contribute funds to a traffic mitigation fund in an amount at least equal to the cost of a traffic impact analysis, as determined by the Board upon consultation with at least the Building Inspector, Board of Public Works, the Planning Board and the applicant. Calculation of anticipated average peak hour trip generation and average weekday generation shall be determined as follows:

1. Determination of Traffic Impact:

- a. In determining traffic generation under this provision, the data contained in the most recent edition of The Institute of Transportation Engineers' publication "Trip Generation" shall be used.
- b. If a principal use is not listed in said publication, the Special Permit Granting Authority (SPGA) may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed principal use.
- c. If no such listed use is sufficiently similar, a traffic generation estimate, along with the methodology used, prepared by a registered professional engineer experienced and qualified in traffic engineering, shall be submitted for approval by the SPGA.

2. Preparation: The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. Firms and individuals preparing traffic impact analyses for submittal to the Board shall comply with any specific standards or requirements for qualifications as the Board may adopt.

3. Scope of Traffic Impact Study: The traffic impact study shall include the following information:

- a. Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous three years, and levels of service (LOS) of intersections and streets likely to be impacted by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1000 feet of the project boundaries, and shall be no more than 12 months old at the date of the application, unless other data are specifically approved by the SPGA. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Board

may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

- b. Projected traffic conditions for design year of occupancy: statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved or are pending before town boards.
- c. Projected impact of proposed development: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in 3.a. above).
- d. Proposed mitigation: A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car pooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:
 - (i) Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection be degraded below the Level of D.
 - (ii) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.
 - (iii) Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.
- e. Adequacy of Mitigation: If the proposed mitigation is deemed by the Board to be inadequate to achieve the standards set forward in Sec. 11.10(3)(d) above, the applicant shall provide alternative proposals to meet the standards, including: reduction in the size of the development; change in proposed uses on the site; contributions to off-site street and intersection improvements; or construction of off-site street and intersection improvements. Where the alternative proposals submitted by the applicant are inadequate, and where it is determined by the Board that the primary traffic impacts of the development as proposed affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, the applicant may be required as a condition of special permit approval to contribute funds to a traffic mitigation fund at least equal to \$300.00 per parking space required to serve the proposed use under this bylaw. For purposes of this standard:

- a. "Level of Service" (LOS) shall be determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council;
 - b. "Impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project; and
 - c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections.
4. Administrative Procedures: The Special Permit Granting Authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other town boards and departments, the SPGA may grant such a permit.

Section Curb Cut Bylaw
11.11

1. Applicability and Use - All driveway openings for special permit uses must be approved by the Special Permit Granting Authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.
2. Required Performance Standards - The following standards shall guide issuance of curb cut permits by the SPGA:
 - a. One curb cut shall be allowed per parcel. If frontage exceeds 600', one additional curb cut may be permitted where it will aid access to and circulation within the parcel. For the purpose of this provision, "parcel" shall mean the entire property subject to an application and any other contiguous land in common ownership or control on or after the date of this bylaw (as amended at the Annual Town Meeting on April 29, 1999). Lots shall not be subdivided for the purpose of increasing the number of permissible curb cuts.

- b. Curb cuts shall be no closer than 75 feet to existing curb cuts and 75 feet to intersecting roadways.
 - c. Wherever possible, access shall be provided onto side streets to avoid the need for a curb cut onto major roadways.
 - d. Joint or shared curb cuts with adjoining parcels are encouraged. When it will facilitate such an arrangement, the SPGA may reduce or eliminate the required side yard setback on the parcel. In such cases, the applicant must submit proof of such an arrangement such as reciprocal easements.
 - e. Curb cut widths shall be the minimum necessary for safe access and egress. The maximum width of curb cuts shall be 30 feet. Curb cuts shall be clearly defined with curbing. The Special Permit Granting Authority may modify these width requirements where necessary to promote safe access to or circulation within the parcel.
 - f. Applicants proposing redevelopment or expansion of existing uses shall correct existing access problems by better defining curb cuts or eliminating excess curb cuts.
 - g. The SPGA may restrict curb cuts to right turn in/right turn out only when, in the opinion of the SPGA, such restriction is necessary for public safety and to minimize traffic congestion.
 - h. Where state curb cut approval is required, applicants are encouraged to apply for such approval concurrently with local approval in order to maximize coordination between local and state review.
3. Administrative Procedures - The SPGA shall adopt rules and regulations relative to the issuance of a curb cut permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purpose of this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

After notice and public hearing, and after due consideration of the reports and recommendations of other town boards/departments, the SPGA may grant such a permit.

1. Purpose, Applicability and Use - The purpose of this bylaw is to establish appropriate siting criteria and standards for communications towers and facilities including but not limited to radio, television, and cellular communications in order to minimize adverse visual impacts and maintain the residential character of the town, and preserve scenic views to and from the town's roadways and waterways. This bylaw is intended to establish reasonable regulations while allowing adequate service to residents, the traveling public and others within the town and to accommodate the need for the minimum possible number of such facilities within the Town of Marshfield. The requirements of this bylaw shall apply to all communications towers and wireless communication facilities that require a special permit in accordance with Section 5.04 of this Bylaw, excluding in-kind or smaller replacement of existing equipment.

2. Required Performance Standards

- a. Any tower shall be set back from property lines a distance at least equal to the height of the tower.
- b. No towers may be constructed within areas subject to protection under the inland/coastal wetlands bylaw (Sections 13.01 and 13.02).
- c. Any tower shall be at least 500 feet from any existing building.
- d. Accessory structures housing support equipment for towers shall not exceed 400 square feet in size and fifteen feet (15') in height and shall be screened from view.
- e. Clearing of natural vegetation should be limited to that which is necessary for the construction, operation, and maintenance of the tower.
- f. Night lighting shall be prohibited unless required by federal authorities and shall be the minimum necessary.
- g. One tower shall be permitted per lot.
- h. No tower shall be more than 150 feet above the natural grade.
- i. Shared use of towers and co-location of communications devices is encouraged. All towers constructed as principal uses shall be designed to accommodate the maximum number of communications facilities possible.
- j. Wherever feasible, wireless communication facilities shall be located on existing towers or other non-residential structures, minimizing construction of new towers.
- k. Wireless communication facilities placed on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building. No facility shall project more than five feet (5') above the existing roofline of the building. Any equipment associated with the facility shall be located within the building.
- l. Towers and facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment.

3. Administrative Procedures - Site plan approval (pursuant to Section 12.02) and Special Permit shall be granted by the Board of Appeals in accordance with M.G.L. Chapter 40A,

Section 9. The Board of Appeals shall adopt rules relative to the issuance of special permits, including application fees, and file a copy with the Town Clerk.

4. Criteria for Review and Approval

- a. The SPGA shall review all applications for communications towers and shall find;
 - (iv) that the location of the tower or device is suitable and that the size, height, and design is the minimum necessary for that purpose;
 - (v) that the proposed tower or devices will not adversely impact historic structures or scenic views;
 - (vi) that there are no feasible alternatives to the location of the proposed tower or devices (including co-location) that would minimize their impact and that the applicant has exercised good faith in permitting future co-location of facilities at the site; and
 - (vii) that the proposed tower or device is in compliance with federal and state requirements regarding aviation safety.

The findings, including the basis for such findings, of the Board shall be stated in the written decision of approval, conditional approval, or denial of the application for Special Permit, and shall require a 4/5 majority vote for approval.

- b. The Board shall also impose, in addition to any applicable conditions specified in the Bylaw, such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise service the purposes of this Bylaw, including, but not limited to: screening, buffering, lighting, fences, modification of the exterior appearance of the structures, limitation upon the size, method of access or other traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

The Special Permit is granted for a period of two (2) years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. And provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. Any extension, addition of cells or construction of new or replacement towers shall be subject to an amendment of the Special Permit following the same procedure as for an original grant of a Special Permit.

Sec. Adult Entertainment

11.13

- 11.13.1 Authority to Regulate - This section is enacted pursuant to M.G.L. Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the

location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

11.13.2 Purpose - The purpose of this Adult Entertainment Section of the Town of Marshfield Zoning Bylaw is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate, adverse impacts on the property values of residential and commercial property and adverse impacts on the quality of life. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Marshfield and its inhabitants.

The provisions of this Section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that is protected by the Constitutions of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

11.13.3 Regulation of Adult Entertainment Uses

1. "Adult entertainment", as defined in this Bylaw, shall be permitted only in the "I" Zoning District, upon the issuance of a special permit from the Planning Board. The Planning Board shall act on applications according to the procedure specified in MGL Chapter 40A, Section 9A.
2. No adult entertainment special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28.

11.13.4 Dimensional Requirements:

1. The distances specified below shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of any of the residential zoning district or to the nearest property line of any of the other uses set forth below:
 - a. Any such proposed use shall be located a minimum of seven hundred [700] feet from any residential Zoning District.
 - b. Any such proposed use shall be located a minimum of seven hundred [700] feet from any residential uses.

- c. Any such proposed use shall be located a minimum of seven hundred [700] feet from any public or private school, public library, day-care facility or religious facility.
 - d. Any such proposed use shall be located a minimum of seven hundred [700] feet from any public or private playground, park or recreational area, or youth center.
 - e. Any such proposed use shall be located a minimum of seven hundred [700] feet from any other adult entertainment use approved under the provisions of this bylaw.
 - f. Any such proposed use shall be located a minimum of seven hundred [700] feet from any establishment licensed under the provisions of MGL Chapter 138, Section 12.
- 2. No more than one structure to be used for adult entertainment shall be located on any one lot.
 - 3. The maximum gross floor area of any structure to be used for adult entertainment shall not exceed 20,000 square feet per acre.
- 11.13.5 Expiration – A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date of issuance and shall be automatically renewable for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority.
- 11.13.6 Severability – The provisions of this Section are severable and, in the event that any provision of this Section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

11.14 Inclusionary Zoning For Affordable Housing.

11.14.1. Purpose:

The purpose of this section of the Bylaw is to promote the development of housing that is affordable to Low and Moderate Income Households, meet the requirements of the Local Initiative Program and qualify for inclusion on the Subsidized Housing Inventory.

11.14.2. Applicability:

- 1. The Inclusionary Zoning Bylaw shall apply to all Zoning Districts within the Town of Marshfield, except the Water Resource Protection District.
- 2. The Inclusionary Zoning Bylaw shall not apply to any development undertaken by the Town of Marshfield for any municipal purposes.

3. The Inclusionary Zoning Bylaw shall not apply to any development carried out under Chapter 40B of the Massachusetts General Laws, as amended.

11.14.3. Voluntary Provision of Affordable Units:

1. The use of this Section of this Bylaw shall be voluntary.
2. The applicant for a special permit, under this Bylaw shall comply with the provisions described in Section 11.14.4 and otherwise comply with this Section of this Bylaw, and the Planning Board shall require such compliance in the Special Permit.

11.14.4. Provision of Affordable Units - Bonuses and Incentives:

1. Affordable Units and Density Bonus - All development which occurs as a result of this Bylaw shall meet the Affordable housing requirements and shall be entitled to a Density Bonus as follows: The number of Affordable units and Density Bonus units shall equal the number of As of Right (AOR) units multiplied by twenty-five (25 %) percent and rounded up to the next even number divided by two. (Example: A 9 unit AOR development will result in 9 AOR units plus 4 units (.25 x 9 units = 2.25 units rounded up to 4 units, 2 Affordable units and 2 Density Bonus units) or 13 units in total. A 31 AOR unit development will result in 31 AOR units plus 8 units (.25 x 31 units = 7.5 units rounded up to 8 units, 4 Affordable units and 4 Density Bonus units) or 39 total units.
2. The requirement for Affordable units shall be met by one or a combination of the following methods:
 - a. On-Site Development - Constructed or rehabilitated on the locus subject to the special permit (see Section 11.14.6); or
 - b. Fees-in-Lieu of Construction - The applicant may offer, and the Planning Board, upon receiving a favorable recommendation from the Housing Partnership, may approve fees-in-lieu-of construction of Affordable housing units as satisfying the requirements of Section 4.0 of this Bylaw. The applicant shall make the payment of the fee-in-lieu of construction to the Marshfield Housing Authority for the sole purpose of converting non-Affordable housing units to Affordable housing units in the Town of Marshfield. Fees-in-lieu of construction are more fully addressed in Section 11.14.7.

The applicant may offer, and the Planning Board may accept, a combination of the Section 4.2.a and 4.2.b requirements; provided that in no event shall the total of number of Affordable units provided on site and the number of Affordable units for which a fee-in-lieu of construction is paid be less than the equivalent number or value of Affordable units required for the applicable development by this Bylaw.

All Affordable units shall meet the requirements of the Local Initiative Program for Local Action Units and be eligible for inclusions on the Subsidized Housing Inventory.

3. Location & Area of Affordable and Density Bonus Units - The Planning Board may allow reductions in the minimum lot sizes listed in Article VI, Section 6.10, Table of Dimensional and Density Regulations to allow for the creation of the Affordable and density bonus units, if the Planning Board finds that such reductions will result in better design and improved protection of natural and scenic resources; provided however, that the average lot size in a development shall not be less than 75% of the applicable minimum lot size listed in Article VI, Section 6.10. The location and size of lots shall be determined in consultation with the Planning Board during the special permitting process.

11.14.5 Standards and Dimensional Regulations:

1. Applicability - Where the requirements of this section differ from or conflict with the requirements in the Table of Density and Dimensional Standards found Article VI of the Town's Zoning Bylaw, the requirement of this section shall prevail for developments being constructed under this section of the Bylaw.
2. Minimum Frontage - The minimum frontage may be reduced from the frontage otherwise required in the Zoning District; provided however that no lot shall have less than 75' of frontage and provided further that such frontage shall apply only to lots fronting on proposed internal roadways.
3. Lot shape - All building lots must be able to contain a circle of a minimum diameter of 75' from the front line to the rear building line.
4. Setbacks - The Planning Board may permit a reduction by up to one-half of the setbacks otherwise listed in the Table of Dimensional Regulations in the Zoning Bylaw, if the Board finds after receiving an opinion from the Conservation Commission that such reduction will not affect natural resources, result in better design, improved protection of the natural and scenic resources and will otherwise comply with the Bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15' from the roadway right-of-way, and a minimum of 30' from the outer perimeter of the land subject to the application. This 30' setback shall be maintained in a naturally vegetated state to screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged.

The applicant shall provide a narrative describing any requested modifications of setback requirements as specified in Section 11.04 (5.4) of the Zoning Bylaw and noting the proposed lots for which setback reductions are being sought.

11.14.6 Provisions of Affordable Housing Units On-Site:

1. Location of Affordable Units - All Affordable units shall be situated within and dispersed throughout the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, than the market-rate units.
2. Minimum Design and Construction Standards for Affordable Units - Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be identical to the market-rate units in size, design, appearance, construction, building systems such as HVAC, electrical and plumbing, and quality and types of materials used in all interior space including bedrooms, kitchen, bathrooms, living rooms, studies, hallways, closets, garages and basements and provided with identical amenities and appliances such as, but not limited to, decks, central vacuum cleaning systems, stoves, refrigerators, compactors, disposals, dishwashers and landscape fencing, walls and plantings unless otherwise approved in the special permit by the Planning Board. No changes to these standards may be made by the Planning Board without the approval of the Housing Partnership.
3. Timing of Construction or Provision of Affordable Units or Lots - Unless otherwise approved by the Planning Board, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of Affordable units be delayed beyond the schedule noted below:

Market-Rate Unit %	Affordable Housing Unit %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

Fractions of units shall not be counted.

Compliance with this requirement shall be monitored by the Building Inspector and the Auditing Agency (see Section 11.14.10), on the basis of building permits issued and occupancy permits requested for both the Affordable housing units and market-rate units. Occupancy permits for any market-rate housing units or nonresidential space shall not be issued if the required Affordable housing units are not being provided in accordance with this schedule.

4. Marketing Plan for Affordable Units - Applicants shall submit a marketing plan which describes the number of Affordable housing units, their approximate sales

price or rent level, the means for selecting buyers or tenants of the Affordable units, how the applicant will accommodate Local Preference requirements and the method of affirmatively marketing the Affordable units (including the marketing of such units) to minority households, in a manner that complies with the LIP Guidelines. This requirement is further addressed in Section 11.14.9 of this Bylaw.

The marketing plan shall be developed by the applicant with the assistance of the Lottery Agent and submitted to the Housing Partnership. The Housing Partnership shall review the marketing plan to determine its appropriateness in addressing the Affordable housing needs within the community and its compliance with applicable federal and state statutes and regulations, the LIP Guidelines and this Bylaw. The Housing Partnership may require modifications of the marketing plan or, if it determines the plan to be satisfactory, may forward it to DHCD with a favorable recommendation. Following the approval of the marketing plan by DHCD, the Housing Partnership shall notify the Planning Board and the Lottery Agent. The special permit and building permits may be granted prior to receiving DHCD approval so as to facilitate the construction of the development; however, occupancy permits, whether for Affordable or market-rate units, shall not be issued until such time as the Marketing Plan has been approved by DHCD.

Applicants shall comply with the requirements of the Lottery Agent and certify their acceptance and willingness to comply with the lottery process or other requirements of the Lottery Agent for the selection of qualified housing buyers or renters for the Affordable units. The lottery system and requirements are further addressed in Section 11.14.9 of this Bylaw.

11.14.7. Provision for Fees-in-Lieu-of Construction of Affordable Housing Units

1. Fees-in-Lieu of Construction of Affordable Housing Units - An applicant may propose to pay a fee-in-lieu of construction of Affordable housing units to the Marshfield Housing Authority. The fee-in-lieu of construction shall be for the sole purpose of converting non-Affordable housing units to Affordable housing units in the Town as part of the Local Initiative Program and shall be held in trust and in separate interest bearing accounts by the Marshfield Housing Authority for such purpose.
2. For each Affordable unit for which a fee-in-lieu of construction is paid, the cash payment per unit shall be equal to forty percent (40%) of the average price being asked for the market-rate units in the applicable development.
3. The fee-in-lieu of construction shall not result in an increase in the total number of market rate units contained in the application for the special permit approved by the Planning Board.

4. The Marshfield Housing Authority shall submit to the Housing Partnership annually and upon request, reports and other documentation of the use of or its financial accounting for the fees-in-lieu of construction.
5. The Marshfield Housing Authority shall hold all fees-in-lieu of construction of Affordable housing units paid to it and all investment income and profit thereon received by it separately from all other moneys of the Marshfield Housing Authority. It shall cause such fees, income and profit to be audited at least once a year by an independent, Certified Public Accountant or independent firm of Certified Public Accountants experienced in auditing accounts of governmental entities (which may be its regular auditor if such regular auditor meets the foregoing criteria), such audit to be completed no later than the general audit of the Marshfield Housing Authority's financial statements for the applicable fiscal year, and a copy of such audit shall be promptly submitted to the Town Accountant, the Town Treasurer, the Town Administrator, the Board of Selectmen, the Housing Partnership, and the Planning Board. Such audit may be combined with the general audit of the Marshfield Housing Authority as long as all matters relating to such fees, income and profit are set forth separately from all other accounts of the Marshfield Housing Authority.
6. Schedule of Fees in Lieu of Payments - Fees-in-lieu of construction payments shall be made according to the schedule set forth in Section 11.14.6 (3)., above.

11.14 8. Preferences Applicable to Buyer/Renter Selection

1. Local Preference:

- a. Local Preference shall be given to Local Residents in the selection of eligible applicants for seventy (70%) percent of the Affordable units in a development.
- b. Verification of local residency may require several forms of verification. The Lottery Agent shall make the determination as to the types of documentation required for verification of residency.
- c. The application of Local Preference shall be in compliance with all applicable fair housing laws and LIP Guidelines.

2. Minority Preference:

- a. Affirmative Marketing Goal: An affirmative marketing goal established for the Town by the DHCD shall be made part of the selection criteria for residents in all developments to which this Bylaw applies.

11.14.9 Lottery Selection of Buyer/Renter

1. The Marshfield Housing Authority or its designee shall serve as the Lottery Agent and shall assist in the development of a Marketing Plan as provided in Section 6.4 for each development to which this Bylaw applies. The Marketing Plan shall describe the buyer selection process for the Affordable units, including any lottery or similar procedure for choosing among eligible purchasers, and will provide for affirmative

fair marketing of Affordable housing units. The Marketing Plan shall include Local Preference as provided in Section 11.14.6.(4).

2. The Lottery Agent shall determine income and asset eligibility of all applicants for Affordable housing according to LIP Guidelines and LIP Regulations, age restrictions, when applicable, and Local Preference described in Section 11.14.8 when conducting its marketing and lottery. There shall be no discrimination on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin, or any other basis prohibited by law in the selection of occupants for the affordable housing units.
3. Prior to marketing or otherwise making available for sale or rental of any of the units, the applicant and the Lottery Agent must obtain DHCD's approval of the Marketing Plan. When submitted to the Housing Partnership for approval, the Marketing Plan shall be accompanied by a letter from the Board of Selectmen to the effect that the Town will perform any aspects of the Marketing Plan which are set forth therein as responsibilities of the Town.
4. The Lottery Agent shall be compensated by the applicant for its services as Lottery Agent in the amount and in the manner described in the approved Marketing Plan and Schedule of Fees established in accordance with Section 11.14.12 of this Bylaw.

11.14.10 Auditing Agency

1. The Marshfield Housing Authority or its designee shall serve as the Auditing Agency for all developments approved under this Bylaw and shall represent the interest of the Town and the Local Initiative Program. The Auditing Agency shall audit all applicable developments to determine compliance with the affordability and other requirements of the LIP, this Bylaw, and to conditions relating to affordability, special permit, Regulatory Agreement, and Use Restrictions, for all applicable developments.
2. Initial Sale - The Auditing Agency will review the initial sales data and determine the compliance of the development with the affordability requirements, as described in the LIP Guidelines and LIP Regulations. The Auditing Agency shall also ensure the applicant's compliance with the approved Marketing Plan and lottery process. Upon completion of its review of initial sales data, the Auditing Agency will deliver to the Housing Partnership a copy of such data together with the Auditing Agency's determination of whether the affordability requirements have been met.
3. Re-sale - The Auditing Agency shall audit re-sales of Affordable units, including appraisal and selling price, deeds, Use Restriction, Regulatory Agreement and other applicable documents, for compliance with LIP Guidelines and LIP Regulations. The Auditing Agency shall evaluate the affordability of the unit and whether the unit should remain affordable or funds should be recaptured and turned over to the Town. Upon

completion of its review of re-sales information, the Auditing Agency will deliver to the Housing Partnership a copy of its findings together with its recommendations. The Housing Partnership shall make a determination as whether the unit is to remain affordable or whether the excess proceeds should be returned to the Town. If the determination of the Housing Partnership is to retain the unit as affordable, the Auditing Agency shall locate and select an eligible buyer in compliance with the approved LIP Guidelines and LIP Regulations, marketing plan and lottery process.

4. Annual Report - The Auditing Agency shall prepare and deliver annually, an Annual Compliance Report with respect to each development to which this Bylaw pertains to the Housing Partnership regarding the construction progress (where applicable) of the applicant with respect to any Affordable units to be provided on site and any handicapped accessible units required to be provided and compliance of the applicant with all matters to be reviewed by the Auditing Agency as set forth in Section 11.14.10.1 through 11.14.10.3 above. The Annual Compliance Report shall indicate the extent of any noncompliance with such matters, describe efforts being made by the applicant to remedy such noncompliance and, if appropriate, recommend possible enforcement action against the applicant. The Auditing Agency shall deliver the Annual Compliance Report within one hundred twenty (120) days of the end of each calendar year.
5. The applicant and the Town shall submit any information, documents or certifications requested by the Auditing Agency which the Auditing Agency shall deem necessary or appropriate to evidence the continuing compliance of the applicant and the Town with the LIP and this Bylaw.
6. The Marshfield Housing Authority shall be compensated by the applicant for its services provided as Auditing Agency in the amount and in the manner described in the approved Marketing Plan and the Schedule of Fees as set forth in Section 11.14.12 of this Bylaw.

11.14.11 Maximum Incomes and Selling Prices: Initial Sale:

1. To ensure that only eligible Households purchase Affordable housing units, potential buyers are required to submit all income and asset documentation to the Lottery Agent, as requested by the Lottery Agent, necessary and appropriate to determine whether the annual income exceeds the maximum level as established by the DHCD, and as may be revised from time to time.
2. The price of an Affordable unit shall be determined in accordance with the most current LIP Guidelines and LIP Regulations.
3. The occupants of an Affordable unit shall provide promptly to the Auditing Agency, all documentation requested by the Auditing Agency, for the determination of initial and continued eligibility and any other matter regarding compliance with the LIP or this Bylaw.

4. The method of determining the sale price for an Affordable unit shall be recorded on the deed as a Use Restriction on the resale of the Affordable unit.
5. The Town shall have the right of first refusal to either find a qualified buyer for the Affordable unit or to purchase the unit to ensure that it remains affordable, should a qualified buyer not be found. The right of first refusal shall be recorded on the deed as a Use Restriction.

11.14.12. Fees

1. A Schedule of Fees shall be developed and maintained by the Planning Board in consultation with the Auditing Agency, Lottery Agent, Housing Partnership and Board of Selectmen.
2. Fees established by the Planning Board shall include, but not be limited to, administrative fees, consultant fees, legal fees and any additional fees the Planning Board may determine to be appropriate for the issuance of the special permit and the administration of this Bylaw and the Local Initiative Program. Fees established by the Planning Board shall be subject to a public hearing prior to their adoption by the Planning Board.
3. The Lottery Agent and Auditing Agency shall establish a fee schedule to defray the cost of implementing and auditing the lottery system and the affordable units in consultation with the Planning Board, Housing Partnership and Board of Selectmen. A copy of the fee schedule shall be forwarded to the Planning Board.

11.14.13 Conflict with Other Bylaws/Ordinances - The provisions of this Section of the Bylaw shall be considered supplemental to the other provisions of the Zoning Bylaws. To the extent that any conflict exists between this Section of the Bylaw and others, the more restrictive provision shall apply.

11.14.14 Severability - If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this Bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

Section

11.15 Wind Energy Conversion Facilities (WECF)

11.15 1. Purpose and Applicability

Wind energy is an abundant, renewable and nonpolluting energy resource; its conversion into electricity will reduce our dependency on nonrenewable energy resources that adversely impact our air and water quality.

The purpose of this bylaw is to provide by Special Permit for the construction and operation of Wind Energy Conversion Facilities (WECF) or Facility and to provide standards for the placement, design, construction, monitoring, modification and removal of WECF. These regulations are intended to protect public health and safety, minimize impacts on scenic, natural and historic resources of the town, while allowing wind energy technology to exist. These regulations also provide adequate financial assurance for the decommissioning of WECF.

This Bylaw applies to: (1) Utility-Scale, (2) Building Mounted and (3) Small Scale Ground Mounted WECF proposed to be constructed after the effective date of this Bylaw. Any physical modifications made after the effective date of this Bylaw to existing WECF that materially alter the type or increases the size of such WECF or other equipment shall require a Special Permit.

11.15 2. General Requirements

No WECF shall be erected, constructed, installed or modified, as provided in this Section, without first obtaining a Special Permit from the Zoning Board of Appeals. The construction of a WECF shall be permitted, subject to the issuance of a Special Permit, in compliance with Sections 10.10 Special Permits, Section 12.02 Site Plan Approval and the requirements of Sections 5.04 Schedule of Use Regulations. WECF must comply with all requirements set forth in this Bylaw. All such WECF shall be constructed and operated in a manner that minimizes any adverse, safety and environmental impacts. No Special Permit shall be granted unless the Special Permit Granting Authority, the Zoning Board of Appeals, makes findings in writing that:

- (a) the specific site is an appropriate location for such use;
- (b) there is not expected to be any serious hazard to pedestrians, vehicles or abutting properties from the use;
- (c) adequate and appropriate facilities will be provided for the proper operation of the use.

The Special Permit decision from the Zoning Board of Appeals may impose reasonable conditions and safeguards that may require the applicant to implement measures to mitigate adverse impacts of the WECF, if it is determined by the ZBA that they are likely to occur.

Wind monitoring or Meteorological Towers shall be permitted in all zoning districts that allow for WECF, as listed in Sections 5.04 Schedule of Use Regulations. Wind monitoring towers are subject to the issuance of a building permit for a temporary structure and are also subject to reasonable regulations concerning the height of structures, lot area and setback requirements.

- 11.15 3. Compliance with All Laws, Bylaws and Regulations
The construction and operation of all WECF shall be in compliance with all applicable local, state and federal laws and regulations, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- 11.15 4. Proof of Liability Insurance
The applicant shall be required to provide evidence of liability insurance in an amount and for a duration of time sufficient to cover loss or damage to persons and structures occasioned by the failure of the Facility.
- 11.15 5. Site Control
At the time of an application for a Special Permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed Facility. Documentation shall also include proof of control over setback areas and access roads if required.
- 11.15. 6. General Siting Standards
- 11.15. 6.1. Height
WECF shall be no higher than 300 feet in elevation above the existing natural grade of the land. WECF may exceed 300 feet if:
- (a) the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited WECF;
 - (b) the additional benefits of a higher tower outweigh any increased adverse impacts;
 - (c) the Facility satisfies all other criteria for the granting of a Special Permit under the provisions of this Section;
 - (d) The height of the Facility is approved by the FAA and the MA DOT Aeronautics Division if required.
- 11.15. 6.2. Setbacks
WECF shall be set back a distance equal to the overall blade tip height plus the required setback in the applicable Zoning District. The Zoning Board of Appeals may allow reduced setbacks for municipally owned WECF if the abutting property is owned by another Town entity and that entity / agency agrees to allow the structure near property under their control. In no case will the setback be less than the height of the Facility to any existing structure.

11.15. 6.3. Setback Waiver

The Zoning Board of Appeals may reduce the minimum setback distance as appropriate based on site-specific considerations if the project satisfies all other criteria for the granting of a Special Permit under the provisions of this Section.

11.15. 7. Design Standards

7. 1. Color and Finish

The Zoning Board of Appeals shall have discretion over the turbine color. A neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged. Color renderings of the proposed WECF shall be submitted to the Zoning Board of Appeals for review and approval.

7. 2. Lighting and Signage

7.2.1. Lighting

WECF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of other parts of the WECF, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

7.2.2 Signage

Signs on the WECF shall comply with the requirements of the Town's sign regulations contained in Article VII of this Bylaw, and shall be limited to:

- (a) those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger;
- (b) Educational signs providing information about the Facility and the benefits of renewable energy.

WECF shall not be used for displaying any advertising except for identification of the manufacturer or operator of the wind energy Facility.

11.15. 7.3. Utility Services

All utility transmission lines from the WECF shall be located underground. The Zoning Board of Appeals may waive this requirement depending on soil conditions and topography of the site and any requirements of the utility provider. Electrical transformers, substations and disconnect devices for utility interconnections may be above ground if required by the utility provider.

7. 4. Appurtenant Structures

All appurtenant structures to a WECF shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such

appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall be architecturally compatible with each other. Structures shall only be used for housing of equipment for the subject property. Whenever feasible, structures should be screened from view by a solid fence, wall or evergreen vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

7. 5. Support Towers

Monopole towers are the preferred type of support for the WECF.

7.6 Ground mounted WECF are not permitted to host telecommunication equipment.

11.15. 8. Safety, Aesthetic and Environmental Standards

8.1. Emergency Services

The applicant shall provide a copy of the application package to the Department of Public Works, Fire and Police Departments. The applicant shall coordinate with those departments listed above in developing an emergency response plan.

8.2. Unauthorized Access

WECF and other appurtenant structures shall be designed with a security barrier, structure, wall or fence at least 6' in height to prevent unauthorized access. To prevent access to the support tower by unauthorized persons, climbing apparatus shall be no lower than ten feet from the ground or by placing secure shielding over the climbing apparatus.

8.3. Shadow/Flicker

WECF shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect will not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

8.4. Noise

The WECF and associated equipment shall conform to the following requirements, whichever is more restrictive:

(a) Article XII Special Regulations Section 12.01 (10) of this Bylaw; or

(b) The provisions of the State Department of Environmental Protection (DEP), Division of Air Quality Noise Regulations (310 CMR 7.10). A source of sound will be considered to be violating these regulations if the source:

(1) Increases the broadband sound level by more than 10 dB above ambient, or;

(2) Produces a “pure tone” condition – when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria shall be measured at both the property line and at the nearest inhabited residence.

11.15. 8.5. Land Clearing

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the WECF. No site alteration, clearing activities or grading shall take place on the site prior to the issuance of a Special Permit, except for construction of a temporary Wind Monitoring Meteorological Tower.

11.15. 8.6. Monitoring and Maintenance

Facility Conditions

The applicant shall maintain the WECF in good condition in compliance with manufacturers’ specifications, all state electric code requirements and the provisions of this Bylaw. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Police and Fire departments. The project owner shall be responsible for the cost of maintaining the WECF and any access road unless accepted as a public way, and for the cost of repairing any damage occurring to the access road as a result of construction and operation.

8.7. Modifications

All material modifications to a WECF made after issuance of the Special Permit shall require approval by the Zoning Board of Appeals as provided in this Section.

11.15 9. Abandonment or Decommissioning

9.1. Removal Requirements

Any WECF which has reached the end of its useful life or has been abandoned shall be removed. When the WECF is scheduled to be decommissioned, the applicant shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the WECF no more than 150 days after the date that operations are discontinued. At the time of removal, the WECF site shall be restored to the state it was in before the Facility was constructed. More specifically, decommissioning shall consist of:

(a) Physical removal of all WECF structures, equipment, security barriers and transmission lines from the site;

(b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion.

The Zoning Board of Appeals may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

9.2. Abandonment

Absent notice of a proposed date of decommissioning, the Facility shall be considered abandoned when the Facility fails to operate for more than one year without the written consent of the Zoning Board of Appeals. If the applicant fails to remove the WECF in accordance with the requirements of this Section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to enter the property and physically remove the Facility.

9.3. Financial Surety

The Zoning Board of Appeals shall require the applicant for a Utility Scale WECF to provide a form of surety that will be available for use for the operating life of the WECF, either through escrow account, bond or other acceptable form of surety. The surety bond will be sufficient to cover the cost of removal in the event the Town or its contractor must remove the Facility, in an amount and form determined to be reasonable by the Zoning Board of Appeals. In no event shall the surety bond exceed more than 125 percent of the estimated cost of removal. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

9.4. Term of Special Permit

A Special Permit issued for a WECF shall be valid for 25 years, unless extended or renewed. The time period may be extended or the permit renewed by the Zoning Board of Appeals upon satisfactory operation of the Facility. Request for renewal must be submitted at least 180 days prior to expiration of the Special Permit. Submitting a renewal request shall allow for continued operation of the Facility until the Zoning Board of Appeals acts. At the end of the term (including extensions and renewals), the WECF shall be removed as required by this Section.

The applicant or Facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

11.15 10. Application Process & Requirements

10.1. General

The application for a WECF shall be filed in accordance with the rules and regulations of the Zoning Board of Appeals concerning Special Permits, Article X Administration and Enforcement Section 10.10 and Article XII Special Regulations

Section 12.02 Site Plan Approval. All applications for Special Permits shall be filed by the applicant with the Town Clerk pursuant to Chapter 40A Section 9 of the Massachusetts General Laws.

10.2. Required Information

The applicant shall provide the Zoning Board of Appeals with 16 copies of the application. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. The following information shall be included in the application:

- (a) Name, address, phone number and signature of the applicant, as well as all co-applicants and property owners;
- (b) The name, contact information and signature of any agents representing the applicant;
- (c) Documentation of the legal right to use the WECF property.

10.3. Siting and Design

The applicant shall provide the Zoning Board of Appeals with a description of the property which shall include a location map from a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed WECF site and the area within a two mile radius from the proposed WECF.

10.4. Site Plan

Applicants shall submit a detailed site plan, stamped by a Massachusetts licensed professional engineer, showing the proposed WECF property and the following site features:

- (a) Property lines for the site parcel and adjacent parcels within 300 feet;
- (b) Outline of all existing buildings, identifying their use (e.g. residence, garage, etc.) on the subject property and all abutting properties;
- (c) Location of all existing and proposed access roads, public and private on the site and adjacent parcels within 300 feet and proposed roads or driveways either temporary or permanent;
- (d) Existing areas of tree cover, including the predominant height of trees, on the site parcel and adjacent parcels;
- (e) Proposed location and design of WECF, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access and fencing etc;

- (f) Location of all vantage points referenced below in Section 11.15.10.5.;
- (g) Location of all resource areas, wetlands, Natural Heritage and Endangered Species Estimated and Priority Habitat areas, migratory bird flyways, prominent and natural and historical site features;
- (h) All proposed grading shown in two-foot contour intervals;
- (i) All proposed lighting shall be shown on the site plan. All lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution, except as required by the FAA and/or MA DOT Aeronautics Division;
- (j) Drainage calculations for the storm water management system for all proposed impervious surfaces;
- (k) Zoning District;
- (l) Existing site topography at two foot contour intervals.

11.15. 10.5. Visual Simulations

5.1. Photo Simulations

The Zoning Board of Appeals shall select between three and six sight lines, including from the nearest building with a view of the WECF, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the WECF. Computer generated photo simulations shall have the following requirements:

- (a) Photo simulations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the WECF;
- (b) All view representations shall include existing and proposed vantage points, distances and angles, WECF structures, buildings and tree coverage;
- (c) A description of the technical procedures used in producing the photo simulations vantage points, distances and angles.

5.2. Balloon Test

The applicant shall conduct a balloon test to help visualize the height of the proposed WECF. A large, brightly colored balloon that can be seen from a distance shall be raised to the same height as the highest point of the blade of the proposed WECF. The time and date of the balloon test shall be determined at the first public hearing and advertised by the applicant in a newspaper of general circulation in Marshfield.

A second date for the test shall be provided in the event of poor weather / visibility. Balloon tests shall be scheduled between the hours of 9:00 AM and 5:00 PM. All balloon tests shall be conducted during daylight hours and clear weather conditions.

11.15 10.6. Landscape Plan

A landscape plan shall be provided that shows the location of all existing and proposed plantings. The landscape plan shall specify the size, type and location of all proposed plantings. The WECF shall be screened from adjacent properties by one or a combination of the following: (1) a minimum 6' high evergreen vegetative buffer, (2) a 6' high solid fence or (3) a 6' high wall.

10.7. Operation & Maintenance Plan

The applicant shall submit a plan for maintaining access roads and the storm water management system, as well as general procedures for operational maintenance of the WECF in accordance with manufacturer's specifications.

10.8. Compliance Documents

The applicant shall provide the following information as part of the Special Permit application:

- (a) A description of financial status of the owner of the proposed WECF;
- (b) Proof of liability insurance;
- (c) Certification of structure height approval from the FAA and from the MA DOT Aeronautics Division if required by applicable Federal regulations;
- (d) A statement certified by an acoustical engineer that demonstrates compliance with Section 11.15.8.4 of this Bylaw and provides the existing ambient sound levels and maximum projected noise levels from the WECF;
- (e) Design plans of the WECF foundation and manufacturers' design plans for the structure, stamped by a Massachusetts licensed professional engineer;
- (f) One or three line electrical diagram detailing the WECF components and electrical interconnection methods, including all National Electrical Code compliant disconnects and over current devices;
- (g) Documentation of the WECF manufacturer and model, rotor diameter, tower height and tower type.

11.15 11. Independent Consultants

Upon submission of an application for a Special Permit, the Zoning Board of Appeals will be authorized to hire outside consultants, as needed, to advise them on technical issues related to the WECF application, pursuant to Chapter 44 Section 53G of

Massachusetts General Laws. The applicant will be required to pay this consultant's fees.

11.15 12. Building Mounted Wind Energy Conversion Facilities

12.1. Building Mounted

Building Mounted WECF are allowed subject to a building permit and a Special Permit issued by the Zoning Board of Appeals as an accessory use. Applications for a Building Mounted WECF shall comply with the requirements of Article X Section 10.10 Special Permits of this Bylaw.

12.2. Turbine Size

The blade tip of a Building Mounted WECF shall be no lower than 15' from the ground elevation and no higher than 20' above the ridge line of the roof.

12.3. Noise

The WECF shall comply with the noise regulations listed in Section 11.15.8.4 of this Bylaw.

12.4. Number Allowed

One WECF is allowed per building.

12.5. Additional submission requirements

Applicants shall submit architectural elevation drawings of the building showing the proposed WECF. Detailed manufacturer's specifications for the WECF shall be submitted.

12.6. Shadow/Flicker

Building Mounted WECF shall comply with Section 11.15.8.3 Shadow/Flicker of this Bylaw.

12.7. Discontinuance

WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner shall be removed within 30 days of an order from the Building Commissioner to remove the WECF.

12.8. Setbacks

Building Mounted WECF shall be set back from the property line a distance equal to the length of the turbine blades plus the minimum setback required in the applicable Zoning District.

11.15 13. Small Scale Ground Mounted Wind Energy Conversion Facilities

13.1 Small Scale Ground Mounted WECF are allowed as an accessory use subject to a building permit and a Special Permit issued by the Zoning Board of Appeals.

Applications for a Small Scale Ground Mounted WECF shall comply with the requirements of Article X Section 10.10 Special Permits and Article XII Special Regulations Section 12.02 Site Plan Approval of this Bylaw.

13.2. Turbine Size

The blade tip of the WECF shall be no lower than 15' from the existing ground elevation. The maximum height of a Small Scale WECF is 150' above the existing ground elevation.

13.3. Noise

The WECF shall comply with the noise regulations listed in Section 11.15.8.4 of this Bylaw.

13.4. Additional submission requirements

Applicants shall submit an elevation drawing of the proposed WECF that illustrates the ground mounted WECF on the property in relation to existing buildings, landscaping and other prominent site features. Detailed manufacturer's specifications for the WECF shall be submitted.

13.5. Shadow/Flicker

Building Mounted WECF shall comply with Section 11.15.8.3 Shadow/Flicker of this Bylaw.

13.6. Discontinuance

Ground mounted WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner shall be removed within 30 days of an order from the Building Commissioner to remove the WECF.

13.7. Location

Ground mounted turbines are not permitted within the front setback area of the lot, facing a public or private way.

13.8. Setbacks

Ground mounted WECF shall comply with the setback requirements for the Zoning District, as required in Article VI Dimensional and Density Regulations Section 6.10. The setback distance shall be measured from the tip of the blade to the lot line.

13.9. Security

All ground mounted WECF shall comply with the requirements of Section 11.15.8.2 of this Bylaw.

(Article XI Special Permit Conditions Section 11.14 Inclusionary Zoning for Affordable Housing Enacted April 2007 ATM)

(Article XI Special Permit Conditions Section 11.05 PMUD amended on 10/19/09 STM, new section added 11.05 8. Exemption)

(Article XI Special Permit Conditions Section 11.15 WECF Enacted Article 20 April 2010 ATM)